THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21033 of 2005

04.10.2005

Between:

Smt.V.Laxminarasamma, W/o.Sri V.Subramanyam, Housewife,

Baghlingampally, Hyderabad.

… Petitioner

AND

1. The A.P. Housing Board, Gagan Vihar, Nampally, Hyderabad

and others

… Respondents

ORDER:

The petitioner claims to be the owner of house bearing No.LIG B37/F1, Baghlingampally Housing Board Colony. She assails the proceedings of the first respondent dated 02.7.2004 whereby and whereunder, the fourth respondent was allotted plot No.24 admeasuring 76.08 Sq.yards adjacent to B37/F1 & F2 facing 30'-0" wide road in Baghlingampally. It is the contention of the petitioner that the said proceedings contrary to the orders of the Government issued in G.O.Ms. No.38, dated 30.5.1997.

It is the case of the petitioner that she joined Flat No.F1 in LIG B37 as a tenant but subsequently purchased the same under registered sale deed dated 20.5.2002 executed by respondents 1 and 2. Her predecessor M.Srinivasulu, appears to have given a representation to Housing Board when the latter proposed to auction the open land near the flat. Some of the persons opposing auction filed W.P.No.11189 of 2000 whereupon the Housing Board dropped auction to sell the open plots. It is also alleged that the Housing Board sold open plots to the adjacent flat owners themselves but, the petitioner could not avail the benefit, as the issue of registration of flat was pending. It appears that the petitioner also filed W.P.No.11812 of 2004 and this Court passed interim orders staying the sale of stray pieces/open plots adjacent to LIG B37 till final orders are passed on the representation dated 05.7.2004. The Housing Board filed counter affidavit in the said writ petition stating that fourth respondent herein requested respondents 1 and 2 to allot alternate land in lieu of open plot to land admeasuring 80 Sq.yards in Ward No.1 Block No.8 adjacent to HIG Phase-I, which was initially allotted but, utilized by Municipal Corporation of Hyderabad (MCH) for laying down the road without compensation to fourth respondent. The petitioner alleges that subsequently with a *mala fide* intention respondents 1 and 2 allotted 76.08 Sq.yards of land adjacent to Flat No.1, LIG B37

to the fourth respondent, which is illegal and contrary to the instructions issued by the Government in G.O.Ms.No.38, dated 30.5.1997.

The learned Counsel for the petitioner, Sri B.Sudhakar Reddy, strenuously contends that as per G.O.Ms.No.38, dated 30.5.1997, the respondents 1 and 2 are bound to allot stray pieces of land less than 100 Sq.yards to adjacent house owners on current market value and therefore, the petitioner has a right for being allotted the land in question, which is adjacent to Flat No.1, LIG B37.

A.P. Housing Board is a statutory creation governed by A.P. Housing Board Act, 1956. There is no provision, which empowers the Government of Andhra Pradesh to give binding instructions under the Act. Therefore, the instructions in G.O.Ms.No.38, dated 30.5.1997 are only administrative in nature and they do not in any manner confer any right on adjacent owner to demand the sale of stray pieces to him/her. Secondly, a reading of the impugned order would show that fourth respondent was initially allotted 80 Sq.yards of land on market value. This land was acquired by MCH for laying down the road without any compensation, whereupon the fourth respondent made a representation dated 29.4.2003 to Housing Board to allot land to an extent of 100 Sq.yards at Kukatpally or Baghlingampally, as her husband died in harness while working as Sub-Inspector in Task Force. After considering the entire issue, the Vice President of the Housing Board directed the allotment of plot No.24 admeasuring 76.08 Sq.yards adjacent to Flat Nos.1 and 2 LIG B37 in lieu of the land which was acquired for laying down the road. This would lead to an inference that the land now allotted to fourth respondent is not exclusively adjacent to Flat No.1 LIG B37. Therefore, strictly the allotment of such a plot cannot come within the purview of G.O.Ms.No.38, dated 30.5.1997. Further, as already observed, the executive instructions contained in the said G.O. do not in any manner confer any right on the petitioner to compel the Housing Board to allot stray piece to her. Lastly, the Vice President of Housing Board issued proceedings dated 02.7.2004 allotting the land to fourth respondent but the petitioner chose to file the writ petition only on 26.9.2005 after lapse of one year. No explanation is given in the affidavit accompanying the writ petition for the delay and laches. If at this point the impugned order is reviewed by this Court, the same would certainly cause prejudice not only to fourth respondent but the Housing Board as well. Therefore, the writ petition is devoid of merits.

The writ petition is, accordingly, dismissed. No costs.

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(**V.V.S. RAO**,**J**)

October , 2005.

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